MCI Communications Corporation
1801 Pennsylvania Ave., NW
Washington, DC 20006
202 887 2731

Michael Hydock
Sr. Staff Member
Regulatory Affairs

November 1, 1993

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, D.C. 20554

Re: In the Matter of: United States Telephone Association Petition for Rulemaking, RM - 8356

Dear Mr. Caton,

Enclosed herewith for filing are the original and nine (9) copies of MCI Telecommunications Corporation's Comments in the above captioned matter. Please acknowledge receipt by affixing an appropriate notation on the copy of the MCI Petition furnished for such purpose and remit same to the bearer.

Yours truly,

Michael F. Hydock

Michael F. Hydock
Senior Staff Member
Federal Regulatory Analysis

No. of Copies rec'd 0+9
List ABCDE CCB

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of:	
Reform of the Interstate Access Charge Rules	**RM-8356**

COMMENTS

By Public Notice dated October 1, 1993, the Commission requested interested parties to file comments regarding the United States Telephone Association's (USTA) Petition for Rulemaking (USTA PRM) filed September 17, 1993. MCI Telecommunications Corporation (MCI) is pleased to offer these comments on USTA's Petition for Rulemaking, and discusses some of the many issues raised within this Petition involving local exchange company (LEC) access charge rules and the prospective reform of those rules.

Despite the comprehensive proposed rules filed by USTA, MCI believes that a request for a rulemaking based on the material presented would be premature. Rather than pursue a rulemaking driven by only one of several participants in the arena of access charges, MCI urges the Commission to reject this petition and instead begin a Notice of Inquiry (NOI) into the future policy directions of access charges. MCI has already expressed its position on this matter in two related proceedings, and by this reference,

incorporates those comments into the instant proceeding.[1] USTA's entire proposal is flawed since it is based on a totally unsupported view of dynamic competition in the LEC access service marketplace. This competition is factually not present in the access marketplace at the present time, nor will it be in place for sometime in the future. As such, it does not present a useful starting point for a rulemaking.

The pursuit of a rulemaking, at this time, would be procedurally deficient, as it would preclude the views of other parties in the development of the debate. USTA represents solely the LEC community, and its proposal speaks from the viewpoint of those parties alone. By advancing to a rulemaking at this juncture the Commission would be ignoring the viewpoints that would undoubtedly be raised by interexchange carriers (IXCs), state Public Utility Commissions (PUCs) and the National Association of Regulatory Utility Commissioners (NARUC), various consumer and user groups, Competitive Access Providers, and other interested parties. Such viewpoints are valuable, and would probably diverge significantly from the premises underlying the USTA PRM. To ensure that the full breath of opinions are aired, a NOI is more appropriate at the present time.

Based upon the comments filed regarding the NARUC request for an NOI, which MCI supports,[2] there is clear consensus that the time is ripe for a comprehensive reform of access charges. Only one out of eighteen parties disagreed with the need for reform.

---

[1]In the Matter of NARUC's Request for a Notice of Inquiry Concerning Access Issues, DA 93-847, MCI Comments, filed September 2, 1993 (MCI/NARUC); In the Matter of Federal Perspectives on Access Charge Reform, the Working Paper of the Common Carrier Bureau's Access Reform Task Force, undocketed, MCI's Comments, filed September 23, 1993 (MCI/FPACR).

[2]See, Note 1.

It was apparent, however, even in that proceeding, that the LECs are uninterested in the views of other parties, and desire merely the discussion of their own proposal, to the exclusion of other paradigms that might be presented.[3] Given the wide diversity of opinions raised in that docket, an NPRM is not advisable at this time. Rather, the establishment of a NOI should serve as the vehicle to explicitly examine the various issues of access charge reform.

USTA's rationale for pursuing a rulemaking rather than an inquiry is that it has provided a comprehensive framework for a reformulation of access charge rules and the piecemeal approach of an NOI would cause inordinate delays to access charge reform.[4] Unfortunately, USTA's haste to arrive at the rulemaking stage is based on its own unsupported interpretation of the competitiveness of the interstate access market. Currently LECs provision over 99 percent of all interstate access[5], and the only competition that has begun to emerge is in niche markets, in selected geographical areas. These unarguable facts clearly indicate the true level of competition in the local exchange marketplace. Moreover, the growth of this emerging competition will be unaffecting over the time frame of an NOI because of the infinitesimal existing base of competition. Therefore, there is time for the Commission to obtain sufficient factual information from which to base its proposed rule changes. The exaggerated level of competition assumed by USTA renders much of its proposal invalid in terms of its public policy ramifications.

---

[3]See MCI/NARUC, Reply Comments, filed September 23, 1993, pp. 1-3.

[4]USTA PRM, pp. 2-3.

[5]See MCI/FPACR, p. 7, note 3.

MCI'S POSITION ON ACCESS REFORM

MCI believes that a comprehensive review of access rate structure and rate setting principles is needed at this time, albeit through the initiation of an NOI. The combination of technological change and incipient competition for some LEC services increasingly is rendering obsolete the FCC's Part 61 and Part 69 rules for establishing the rate structure for access and for developing access charge rate levels.

The prospect of competitive entry for services that are currently a LEC monopoly will induce the LECs to lower prices for those services that potentially may face competition, while keeping prices for services that remain a monopoly well above cost in order to preserve existing revenues. If the LEC is permitted to price its potentially competitive services below actual costs, however, it may be able not only to meet the competition, but to beat it, whether or not it is actually the most efficient provider of service in the market.

It is during the transition from monopoly to effectively competitive markets, where the LEC provides both monopoly and competitive services, that the need is most acute for the regulatory agency to establish the cost of each service and to set pricing rules that safeguard against anticompetitive abuses, despite the arguments of USTA in its quest for unencumbered pricing behavior for virtually all its services. At one extreme, where a fully monopolized market exists, the ability to manipulate prices in an anticompetitive way exists, but, since competition does not exist, the incentive to do so is lacking. Thus, where a company enjoys a monopoly for all of its services, the rates for those services can be set more or less arbitrarily, and the focus of the regulator is

properly on ensuring both that customers are not subjected to artificially high rates and that the total amount of revenue recovered by the utility is reasonable. In this situation, cost estimates for individual services and the prices set for each service do not affect the overall ability of the company to recover its revenue requirement, and prices may be set to reflect not only economic factors, but also to accomplish public policy goals.

At the other extreme, where effectively competitive markets exist for all of a LEC's services, the incentive to engage in anticompetitive pricing is strong, but the ability to manipulate prices is absent. Market pressures drive rates to costs, and no customer or group of customers will tolerate excessive LEC rates since competitive alternatives are readily available.

It is where the firm faces both monopoly and potentially competitive markets that both the incentive and the ability to manipulate prices in an anticompetitive fashion are present. Thus, as competitive entry occurs, or even as the possibility of competitive entry arises, and the transition to a competitive market has begun, the need for cost studies and price regulation is increased, not decreased.

This, of course, is exactly the scenario present in access markets today -- complicated by the fact that access services are offered on a bundled basis that facilitates anticompetitive pricing behavior on the part of LECs.[6] Competition is beginning to

---

[6] Where LECs offer bundled services consisting of both monopoly and competitive network components, there is great opportunity for abuse. Consider, for example, a LEC that offers end users a bundled service that consists of a monopoly network component and a competitive network component, and separately offers dependent competitors the monopoly network component. If the LEC is allowed to perform separate cost studies for the two services, it will have the incentive -- and, as experience has shown over and over again, the ability -- to perform the cost studies in a fashion that results in a lower cost estimate for the monopoly

develop for certain access services, while other access services will remain monopolized for the foreseeable future. Access services must be unbundled into their underlying functional components and access rates restructured based on the economic costs of providing the basic network functional "building blocks" that comprise access. A Building Blocks approach to costing and pricing LEC access services will assist the Commission in preventing anticompetitive pricing, while permitting the LECs pricing flexibility for those building blocks and services that face effective competition.

SPECIFIC ISSUES WITH USTA PRM

As discussed above, USTA exaggerates the extent of competition LECs faces in the interstate access market, and ignores the long term monopoly LECs will continue to hold in the majority of its services. This leads to several faulty conclusions within the USTA PRM.

First, absent the vastly overstated level of competition implicit in the USTA PRM, it would be clearly incorrect to immediately allow the pricing flexibility posited by USTA. As discussed above, consumers and dependent competitors will still require the protection of regulated prices during the movement towards competition. Failure to provide that protection will allow for cross subsidization of services provided in the embryonic competitive niche markets by the more traditional monopoly services. Since the market for access service is anything but effectively competitive, it is incumbent for

---

network component when it is part of the bundled service to end users than when it is offered to competitors.

the Commission to require LECs to price based on cost, not upon the strategic aims of dominant LECs. Absent regulations on pricing behavior, LECs will be able to dismantle competition prior to its effective presence in the marketplace.

Moreover, the proposed dismantling of the long standing principle of non-discriminatory pricing will allow LECs to price based on market demand (not cost) and lead to further demands to provide individually based contract prices. Such activity could not only demolish the fragile incipient access services competition, but could also disadvantage all but the largest IXCs as LECs attempt to lock in their largest customers.

Second, USTA also suggests that existing rules regarding tariffing requirements for new services be scuttled. Absent any actual showing that such requirements are burdensome and curtail the development of new services, USTA proposes to eliminate such rules. Moreover, USTA extends its hyperbole even further, arguing that sharing rules are a detriment to new service innovation. USTA presents this argument, despite the fact that it provides no concrete justification for its findings. MCI submits that LEC customers would not have received the level of benefits they received with 800 database, Line Information Database, and Signalling System 7 implementation had USTA's proposed relaxed rules been in effect.

Finally, USTA decries the existence of sharing requirements and earnings constraints on price cap and rate of return carriers, respectively. Arguing that under competitive markets earnings oversight is not required, USTA proposes the elimination of these pro-consumer policies. This proposal is fatally flawed. The underlying

assumption of vibrant competition in the interstate access marketplace is simply wrong. With the minuscule level of competition in the marketplace today, consumers of access services require monopoly providers to operate under earnings constraints and sharing. Moreover, if there were significant levels of competition, the marketplace would yield a situation where competition constrained earnings to reasonable levels. This is not the case, however, as evidenced by the continuing presence of price cap and rate of return carriers earning in excess of 11.25 percent.

CONCLUSION

For the reasons stated above, MCI urges the Commission to reject USTA's proposal for a rulemaking at the present time and instead begin a Notice of Inquiry on the future of access charge changes.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

Michael F. Hydock
Senior Staff Member
1801 Pennsylvania Ave. NW
Washington, DC 20006
(202) 887-2731

Dated: November 1, 1993

STATEMENT OF VERIFICATION

I have read the foregoing, and to the best of my knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on November 1, 1993.

Michael F. Hydock
Senior Staff Member
1801 Pennsylvania Ave. NW
Washington, D.C. 20006
(202) 887-2731

CERTIFICATE OF SERVICE

I, Susan A. Travis, do hereby certify that true and correct copies of the foregoing "COMMENTS" were served this 1st day of November, 1993, by first-class mail, postage prepaid, upon the parties listed below.

Kathleen Levitz **
Federal Communications Commission
Acting Chief, Common Carrier Bureau
Room 500
1919 M. St. N.W.
Washington, D.C. 20554

Gregory J. Vogt **
Chief, Tariff Division
Common Carrier Bureau
Federal Communications Commission
Room 500
1919 M. St. N.W.
Washington, D.C. 20554

Policy and Program Planning Division **
Common Carrier Bureau
Federal Communications Commission
Room 544
1919 M. St. N.W.
Washington, D.C. 20554

Martin T. McCue
United States Telephone Association
900 19th St. N.W.
Suite 800
Washington, D.C. 20006-2105

ITS **
1919 M St. N.W.
Room 246
Washington, D.C. 20554

Susan A. Travis

** Hand Delivered